IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1886 OF 2004

Prakash Yashwant Jadav ...Petitioner

V/s.

The State of Maharashtra ...Respondent

Mrs. Pranali Kakade for the Petitioner.
Ms.Rajshree Gadhvi A.P.P. for the Respondent.

CORAM : A.S. OKA, J.
DATED : JULY 07, 2005.

P.C.:

1. This Petition is filed through Jail. In the Writ Petition, the challenge is to the order passed by the Deputy Inspector General of Prisons rejecting the Application for furlough leave made by the Applicant. The Application is rejected by order dated 30th June, 2004 on two grounds. One is that when earlier furlough leave was granted in favour of the Petitioner, there was delay of 64 days in surrendering himself and that there is an adverse police report disclosing enemity between the Applicant and the complainant.

2. Perused the police report dated 19th/20th May, 2004. The police report discloses that the Applicant will be residing at Kupwad, Tal.Miraj, Dist. Sangli while on furlough leave. The report records that there is enemity between the Applicant and members of family of the deceased.

3. In this Petition filed through Jail, Petitioner has given explanation for surrendering late when he availed of earlier furlough leave. He has stated that he has four minor children and his wife was not keeping good health. The explanation given deserves to be accepted in the facts of this case. It is pertinent to note that it is not the case that when furlough leve was granted earlier, the Petitioner had misused the liberty and has done any overt act affecting law and order. The Petitioner has stated that the complainant and relatives of the complainant are residing in District Solapur and he is going to reside in District Sangli if furlough leave is granted.

4. In the circumstances, the order dated 30th June, 2004 is unsustainable and deserves to be quashed and set aside. The Application made by the Applicant deserves to be considered afresh in the light of the observations made by this court in this order. Considering the peculiar facts of the case, the Applicant cannot be denied furlough leave on the ground that he did not surrender in time when earlier furlough leave was granted. Hence, Petition is disposed of by passing following order:

: O R D E R :

i) The impugned Order dated 30th June, 2004 is quashed and set aside. The concerned authority will consider the Application made by the Petitioner for furlough leave afresh in the light of the observations made in this order.

ii) It will be open for the concerned authority to call for fresh report of the police before the disposal of the Application for furlough leave.

iii) The Application for furlough leave shall be decided in accordance with law within a period of eight weeks from today.

iv) Copy of this order be forwarded to the Petitioner.

JUDGE